

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.783 OF 2004
IN
NOTICE OF MOTION NO.1826 OF 2004
IN
SUIT NO.1769 OF 2004

Mrs.Asha Wagle .. Appellant.
V/s.
Mr.Nikhil Nityanand Wagle & Ors. .. Respondents.

Mr.Janak Dwarkadas, senior counsel with Ms.Anita
Castelino i/b. S.S. Amin for the appellant.

Mr.Aspi Chinoy, senior counsel with Mr.S.B.
Jaisinghani and Mr.Satish Maneshinde i/b. Ms.N.S.
Nappinai for respondent Nos.1 to 3.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 20TH DECEMBER, 2004.

P.C. :

. Heard the learned senior counsel for the
appellant and respondent Nos.1 and 2.

2. The appeal is directed against the
ad-interim order passed by the learned motion judge.
The notice of motion is pending and we are of the
view that all contentions must be advanced by the
parties before the learned motion Judge at the time
of hearing of the notice of motion.

3. However, we direct the plaintiffs

(respondent Nos.1 and 2) to file an undertaking before this Court within two weeks from today that in the event of dismissal of the notice of motion and if by that time the validity of Cheque No.740081 expires, the plaintiffs (respondent Nos.1 and 2) shall revalidate the cheque for a further period of six months without prejudice to their rights and contentions in the appeal that may be filed by them against the order of the learned motion Judge.

4. We also clarify that the observations made by the learned motion Judge in the impugned order are only for the consideration of ad-interim relief and shall not influence the consideration of the notice of motion on merits.

(R.M. LODHA, J.)

(J.P. qDEVADHAR, J.)